

AMENDED IN ASSEMBLY MAY 21, 2001
AMENDED IN ASSEMBLY APRIL 17, 2001
AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 564

Introduced by Assembly Member Lowenthal

February 21, 2001

An act to amend ~~Section 1680~~ *Sections 1680 and 1682* of the Business and Professions Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Lowenthal. Dentistry: oral conscious sedation.

The Dental Practice Act regulates and licenses the practice of dentistry, including the use of oral conscious sedation by licensees for pediatric patients.

This bill would require the Dental Board of California to submit a report to the Assembly Committee on Health and the Senate Business and Professions Committee on or before January 1, 2003, regarding reports it has received on deaths or hospitalizations as a result of dental treatment.

This bill would make it unprofessional conduct for a dentist to fail to notify the board ~~orally within 48 hours and~~ in writing within 7 days of any patient that was ~~admitted~~ *removed* to a hospital *or emergency care center for medical treatment for more than 24 hours* as a result of dental treatment, and would allow the board to inspect a dental office upon receipt of a report if the board finds it necessary. The bill would

also give the board the authority to conduct an inspection of a dental office upon receipt of a report of an incident involving oral sedation that required medical assistance. *The bill would make conforming changes.*

This bill would also make legislative findings and declarations and express legislative intent regarding the use of sedatives in pediatric dentistry.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) The law requires that pediatric dentists ensure that drugs
3 and techniques used in oral conscious sedation to minors shall have
4 a margin of safety wide enough to render unintended loss of
5 consciousness unlikely.

6 (b) Sedatives used in pediatric dentistry can cause brain
7 damage or death if improperly administered.

8 (c) Dentists are currently not required to report incidents where
9 a patient requires emergency medical attention.

10 SEC. 2. It is the intent of the Legislature that all licensed
11 dentists shall report incidents involving oral sedation that require
12 medical assistance. The Dental Board of California shall have the
13 authority, upon receipt of an incident report, to conduct an
14 inspection of the dental office.

15 SEC. 3. The Dental Board of California shall submit a report
16 to the Assembly Committee on Health and the Senate Business and
17 Professions Committee on or before January 1, 2003, regarding all
18 reports that the board has received on the subject of deaths or
19 hospitalizations as a result of dental treatment.

20 SEC. 4. Section 1680 of the Business and Professions Code
21 is amended to read:

22 1680. Unprofessional conduct by a person licensed under this
23 chapter is defined as, but is not limited to, the violation of any one
24 of the following:

25 (a) The obtaining of any fee by fraud or misrepresentation.

26 (b) The employment directly or indirectly of any student or
27 suspended or unlicensed dentist to practice dentistry as defined in
28 this chapter.



1 (c) The aiding or abetting of any unlicensed person to practice
2 dentistry.

3 (d) The aiding or abetting of a licensed person to practice
4 dentistry unlawfully.

5 (e) The committing of any act or acts of gross immorality
6 substantially related to the practice of dentistry.

7 (f) The use of any false, assumed, or fictitious name, either as
8 an individual, firm, corporation, or otherwise, or any name other
9 than the name under which he or she is licensed to practice, in
10 advertising or in any other manner indicating that he or she is
11 practicing or will practice dentistry, except that name as is
12 specified in a valid permit issued pursuant to Section 1701.5.

13 (g) The practice of accepting or receiving any commission or
14 the rebating in any form or manner of fees for professional
15 services, radiograms, prescriptions, or other services or articles
16 supplied to patients.

17 (h) The making use by the licentiate or any agent of the
18 licentiate of any advertising statements of a character tending to
19 deceive or mislead the public.

20 (i) The advertising of either professional superiority or the
21 advertising of performance of professional services in a superior
22 manner. This subdivision shall not prohibit advertising permitted
23 by subdivision (h) of Section 651.

24 (j) The employing or the making use of solicitors.

25 (k) The advertising in violation of Section 651.

26 (l) The advertising to guarantee any dental service, or to
27 perform any dental operation painlessly. This subdivision shall not
28 prohibit advertising permitted by Section 651.

29 (m) The violation of any of the provisions of law regulating the
30 procurement, dispensing, or administration of dangerous drugs, as
31 defined in Article 7 (commencing with Section 4211) of Chapter
32 9, or controlled substances, as defined in Division 10
33 (commencing with Section 11000) of the Health and Safety Code.

34 (n) The violation of any of the provisions of this division.

35 (o) The permitting of any person to operate dental radiographic
36 equipment who has not met the requirements of Section 1656.

37 (p) The clearly excessive prescribing or administering of drugs
38 or treatment, or the clearly excessive use of diagnostic procedures,
39 or the clearly excessive use of diagnostic or treatment facilities, as

1 determined by the customary practice and standards of the dental
2 profession.

3 Any person who violates this subdivision is guilty of a
4 misdemeanor and shall be punished by a fine of not less than one
5 hundred dollars (\$100) or more than six hundred dollars (\$600),
6 or by imprisonment for a term of not less than 60 days or more than
7 180 days, or by both a fine and imprisonment.

8 (q) The use of threats or harassment against any patient or
9 licentiate for providing evidence in any possible or actual
10 disciplinary action, or other legal action; or the discharge of an
11 employee primarily based on the employee's attempt to comply
12 with the provisions of this chapter or to aid in the compliance.

13 (r) Suspension or revocation of a license issued, or discipline
14 imposed, by another state or territory on grounds which would be
15 the basis of discipline in this state.

16 (s) The alteration of a patient's record with intent to deceive.

17 (t) Unsanitary or unsafe office conditions, as determined by the
18 customary practice and standards of the dental profession.

19 (u) The abandonment of the patient by the licentiate, without
20 written notice to the patient that treatment is to be discontinued and
21 before the patient has ample opportunity to secure the services of
22 another dentist and provided the health of the patient is not
23 jeopardized.

24 (v) The willful misrepresentation of facts relating to a
25 disciplinary action to the patients of a disciplined licentiate.

26 (w) Use of fraud in the procurement of any license issued
27 pursuant to this chapter.

28 (x) Any action or conduct which would have warranted the
29 denial of the license.

30 (y) The aiding or abetting of a licensed dentist or dental
31 auxiliary to practice dentistry in a negligent or incompetent
32 manner.

33 (z) The failure to report to the board ~~by telephone within 48~~
34 ~~hours and~~ in writing within seven days any of the following: (1)
35 the death of his or her patient during the performance of any dental
36 procedure; (2) the discovery of the death of a patient whose death
37 is related to a dental procedure performed by him or her; or (3) the
38 ~~admission to, or the treatment of, his or her patient in a hospital~~
39 ~~removal to a hospital or emergency center for medical treatment~~
40 ~~for a period exceeding 24 hours of any patient as a result of dental~~

1 treatment. Upon receipt of a report pursuant to this subdivision the
2 board may conduct an inspection of the dental office if the board
3 finds that it is necessary.

4 (aa) Participating in or operating any group advertising and
5 referral services which is in violation of Section 650.2.

6 (bb) The failure to use a fail-safe machine with an appropriate
7 exhaust system in the administration of nitrous oxide. The board
8 shall, by regulation, define what constitutes a fail-safe machine.

9 (cc) Engaging in the practice of dentistry with an expired
10 license.

11 (dd) Except for good cause, the knowing failure to protect
12 patients by failing to follow infection control guidelines of the
13 board, thereby risking transmission of blood-borne infectious
14 diseases from dentist or dental auxiliary to patient, from patient to
15 patient, and from patient to dentist or dental auxiliary. In
16 administering this subdivision, the board shall consider
17 referencing the standards, regulations, and guidelines of the State
18 Department of Health Services developed pursuant to Section
19 1250.11 of the Health and Safety Code and the standards,
20 guidelines, and regulations pursuant to the California
21 Occupational Safety and Health Act of 1973 (Part 1 (commencing
22 with Section 6300), Division 5, Labor Code) for preventing the
23 transmission of HIV, hepatitis B, and other blood-borne pathogens
24 in health care settings. As necessary, the board shall consult with
25 the California Medical Board, the Board of Podiatric Medicine,
26 the Board of Registered Nursing, and the Board of Vocational
27 Nursing and Psychiatric Technicians, to encourage appropriate
28 consistency in the implementation of this subdivision.

29 The board shall seek to ensure that licentiates and others
30 regulated by the board are informed of the responsibility of
31 licentiates and others to follow infection control guidelines, and of
32 the most recent scientifically recognized safeguards for
33 minimizing the risk of transmission of blood-borne infectious
34 diseases.

35 (ee) The utilization by a licensed dentist of any person to
36 perform the functions of a registered dental assistant, registered
37 dental assistant in extended functions, registered dental hygienist,
38 or registered dental hygienist in extended functions who, at the
39 time of initial employment, does not possess a current, valid
40 license to perform those functions.

1 SEC. 5. *Section 1682 of the Business and Professions Code is*
2 *amended to read:*

3 1682. In addition to other acts constituting unprofessional
4 conduct under this chapter, it is unprofessional conduct for:

5 (a) Any dentist performing dental procedures to have more
6 than one patient undergoing conscious sedation or general
7 anesthesia on an outpatient basis at any given time unless each
8 patient is being continuously monitored on a one-to-one ratio
9 while sedated by either the dentist or another licensed health
10 professional authorized by law to administer conscious sedation or
11 general anesthesia.

12 (b) Any dentist with patients recovering from conscious
13 sedation or general anesthesia to fail to have the patients closely
14 monitored by licensed health professionals experienced in the care
15 and resuscitation of patients recovering from conscious sedation
16 or general anesthesia. If one licensed professional is responsible
17 for the recovery care of more than one patient at a time, all of the
18 patients shall be physically in the same room to allow continuous
19 visual contact with all patients and the patient to recovery staff
20 ratio should not exceed three to one.

21 (c) Any dentist with patients who are undergoing conscious
22 sedation to fail to have these patients continuously monitored
23 during the dental procedure with a pulse oximeter or similar or
24 superior monitoring equipment required by the board.

25 (d) Any dentist with patients who are undergoing conscious
26 sedation to have dental office personnel directly involved with the
27 care of those patients who are not certified in basic cardiac life
28 support (CPR) and recertified biennially.

29 (e) Any dentist to fail to obtain the written informed consent of
30 a patient prior to administering general anesthesia or conscious
31 sedation. In the case of a minor, the consent shall be obtained from
32 the child's parent or guardian.

33 ~~(f) Any dentist to fail to report to the board, in writing, within~~
34 ~~seven days after the death or removal to a hospital or emergency~~
35 ~~center for medical treatment for a period exceeding 24 hours of any~~
36 ~~patient to whom conscious sedation or general anesthesia was~~
37 ~~administered.~~